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Before The
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Advanced Television Systems
and Their Impact Upon the
Existing Television Broadcast
Service

MM Docket No. 87-268

To: The Commission

PETITION FOR RECONSIDERATION

The University of Houston System ("University"), licensee of noncommercial educational television station KUHT, Channel 8, Houston, Texas, by its counsel, hereby petitions for reconsideration of the *Sixth Report and Order* in MM Docket No. 87-268, FCC 97-115 (released April 21, 1997) ("*Sixth R&O*"), insofar as the *Sixth R&O* allocates Channel *53 as the paired digital TV channel for KUHT's current Channel *8. As described herein, requiring the University to use Channel *53 will cause substantial and unnecessary hardship. DTV Channel *9 was previously proposed as the paired channel for KUHT and the University believes that Channel *9 can be used without interference to any other NTSC or DTV station. In this single respect, the University seeks relief by this petition.

Station KUHT was the nation's first noncommercial educational television station. The University has operated station KUHT on Channel *8 at Houston since May of 1953, providing high quality educational, informational and cultural programming, including

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children's programming, to the Houston metropolitan area. By necessity, as a noncommercial educational licensee and a public institution of higher education, the University must be a careful steward of its resources, even while it seeks to offer leadership in the public broadcasting system. The University has planned to extend its leadership into the digital television era and looked forward to the early, innovative activation of DTV facilities. The allocation of Channel *53 as its paired DTV channel, however, creates enormous and unnecessary obstacles to the achievement of its goals.

In the *Sixth Further Notice of Proposed Rule Making* in this docket, FCC 96-317 (released August 14, 1996), the Commission proposed to allocate Channel *9 as KUHT's paired DTV channel. That facility would have been authorized to operate at 8.4 kw/564 m HAAT, providing coverage essentially similar to that now provided by KUHT on Channel *8. The Commission apparently thought that no NTSC allotment or proposed DTV channel would conflict with that allocation. In its separate consideration of possible DTV allocations, the Broadcasters Caucus also proposed allocation of Channel *9 for KUHT, although it thought that the station could operate at 20.9 kw with HAAT of 565 m.^{1/}

^{1/} In view of the Commission's and Broadcasters Caucus proposals, and in recognition of the fact that the Commission and the broadcasting industry urged that individual broadcasters not file separate comments, the University saw no necessity to participate in the proceeding earlier on an individual basis. The University did participate, however, in the form of comments filed on its and other public TV stations' behalf by the Public Broadcasting Service and America's Public Television Stations. It also joined the Broadcasters Caucus comments that supported a version of the Table of DTV Allotments pairing Channel *9 with Channel *8. Given that the University had no reason to anticipate that the Commission would fail to implement its proposal for allocating Channel *9, the requirements of Section 1.429 of the Rules with respect

Inexplicably, however, in the *Sixth R&O*, the Commission allocated Channel *53 for KUHT instead of Channel *9. The Commission suggested that the Channel *53 facility could operate at 1000 kw at 564 m HAAT, providing 99.9% coverage of KUHT's existing service area. Inquiries to FCC staff indicate that the computer program utilized by the Commission suggested that Channel *9 should be allocated to KUHT, but that a manual adjustment was made due to concern over possible interference to NTSC Station KTRE operating on Channel 9 at Lufkin, Texas, 215 km from KUHT's transmission facilities.

The University requests reconsideration of that aspect of the *Sixth R&O*, and urges the Commission to allocate Channel *9 instead of Channel *53 for KUHT. The University would accept limitations on its power during the transition to avoid any possibility to interference to Station KTRE. However, it believes that its operation of the DTV companion station on Channel *9 during and after the transition would be possible, without interference to Station KTRE, with power levels suggested by the Broadcasters Caucus.

Substantial hardship will be inflicted upon the University if it is required to activate its DTV channel on Channel *53. Operation of that DTV station with power levels of 1000 kw instead of 8.4 kw on Channel *9 as proposed by the Commission, or even 20.9 kw as suggested by the Broadcasters Caucus, will result in additional electrical

to petitions for reconsideration should be deemed satisfied. If necessary, however, the University requests waiver of Section 1.429 to the extent necessary for the Commission to consider its petition, in view of the public interest issues raised herein.

power costs of between \$200,000 and \$250,000 per year. This is in itself a devastating problem for this noncommercial educational station.

Moreover, the University has been planning ways to activate its DTV channel with equipment shared with its existing station on Channel *8. The University believes, based on its studies, that a DTV channel on Channel *9 could share the transmission line and transmitter (with different exciters) of Channel *8. It may also be able to share the Channel *8 antenna. The additional cost of acquiring equipment to operate on Channel *53 for DTV would probably be \$750,000, a staggering figure for a public institution.

Even worse, the Commission's proposal for KUHT to activate its DTV channel on Channel *53 would require the University to change channels after the transition period. Under any scenario of the *Sixth R&O*, Channel *53 would be reclaimed by the Commission for other purposes as it is outside of the core spectrum for TV operations. Thus, under the *Sixth R&O*, the University would be required to activate its DTV station, only to move it to some other channel after the transition period. Station KUHT would be the only station in Houston that would bear this additional burden.

All these costs that would be incurred by a public broadcaster and public educational institution are unnecessary. The Commission can allocate Channel *9 for KUHT as proposed in the *Sixth Further Notice of Proposed Rule Making* and the comments of the Broadcasters Caucus. As noted above, the University would accept such temporary power limitations as necessary to avoid interference during the transition

period to Station KTRE, Lufkin, Texas. Thus, there is no basis for rejecting Channel *9 at Houston for KUHT's use as a DTV allotment.

For the foregoing reasons, the University requests reconsideration of the *Sixth R&O* to the extent that it allocates Channel *53 for KUHT in Houston, and urges that Channel *9 be allocated instead.

Respectfully submitted,

UNIVERSITY OF HOUSTON SYSTEM

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May 5, 1997

Houston Public Television

From the office of the
Chief Executive Officer
and General Manager



DECLARATION OF JEFF CLARKE

I am Jeff Clarke, Chief Executive Officer and General Manager of noncommercial educational television station KUHT, Houston, Texas. Station KUHT is licensed to the University of Houston System.

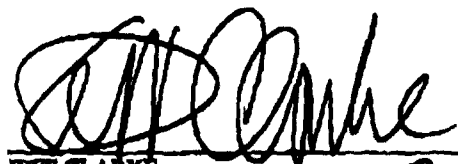
I have read and am familiar with the "Petition for Reconsideration" to be filed on behalf of the University of Houston System with respect to the *Sixth Report and Order* in MM Docket No. 87-268. In the Petition, the University seeks reconsideration of the allocation of Channel *53 as the paired digital TV channel for KUHT. The University urges that the FCC allocate Channel *9 instead of Channel *53.

The Channel That The facts as stated in the Petition are true and correct to the best of my knowledge and belief.

That I declare under penalty of perjury that the foregoing is true and correct.

Changes Executed on May 5, 1997.

You


JEFF CLARKE 5-5-97